



FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35632]

Iowa Pacific Holdings, LLC and Permian Basin Railways—Continuance in Control
Exemption—Santa Cruz and Monterey Bay Railway Company

Iowa Pacific Holdings, LLC, and Permian Basin Railways (IPH/PBR), noncarriers, have filed a verified notice of exemption pursuant to 49 CFR 1180.2(d)(2) to continue in control of Santa Cruz and Monterey Bay Railway Company (SCMB) upon SCMB's becoming a Class III rail carrier.¹

In a concurrently filed verified notice of exemption, SCMB seeks Board approval to acquire by assignment from Sierra Northern Railway its lease and operating rights over a 31.0-mile rail line (the Line) owned by Union Pacific Railroad Company (UP). The Line, known as the Santa Cruz Branch, extends from milepost 0.433 at the east boundary of Salinas Road, near Watsonville Junction, Cal., to milepost 31.39 at the end of the line near Davenport, Cal., and includes an interconnection with Santa Cruz, Big Trees & Pacific Railway Company at milepost 20.4 in Santa Cruz, Cal., and an additional 3.6 miles of siding and spur track. Santa Cruz & Monterey Bay Ry.—Assignment of Lease Exemption—Sierra N. Ry., Docket No. FD 35633.

¹ PBR and SCMB are wholly owned subsidiaries of IPH.

In addition, SCMB has filed a related verified notice of exemption to acquire from UP its permanent and exclusive operating easement over the Line.² Santa Cruz & Monterey Bay Ry.—Acquis. & Operation Exemption—Union Pac. R.R., Docket No. FD 35659.

The transaction may be consummated on or after August 31, 2012 (the effective date of the exemption).

IPH/PBR subsidiary railroads include: (1) Chicago Terminal Railroad, located in and around Chicago, Ill.; (2) Mount Hood Railroad, located in Oregon; (3) San Luis & Rio Grande Railroad, located in Colorado; (4) Saratoga & North Creek Railway, located in New York; (5) Texas-New Mexico Railroad, located in New Mexico and Texas; and (6) West Texas & Lubbock Railway, located in Texas.

IPH/PBR represent that: (1) the Line does not connect with any other railroads in the corporate family; (2) the transaction is not part of a series of anticipated transactions that would connect the Line with any other railroads in the corporate family; and (3) the transaction does not involve a Class I rail carrier. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. See 49 CFR 1180.2(d)(2).

² Related to these notices of exemption is a petition for a declaratory order filed by the Santa Cruz County Regional Transportation Commission (SCCRTC). See Santa Cruz Cnty. Reg'l Transp. Comm'n—Petition for Declaratory Order, Docket No. FD 35653. SCCRTC seeks a finding that its purchase of the physical assets of the Line from UP is not subject to the Board's approval jurisdiction and will not result in SCCRTC acquiring a common carrier obligation with respect to the Line. As part of the transaction, UP will retain the permanent and exclusive operating easement over the Line that SCMB is seeking to acquire. The petition will be addressed in a separate decision.

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Accordingly, the Board may not impose labor protective conditions here, because all of the carriers involved are Class III carriers.

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Stay petitions must be filed no later than August 24, 2012 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35632, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on John D. Heffner, Strasburger & Price, LLP, 1700 K Street, N.W., Suite 640, Washington, DC 20006.

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Decided: August 14, 2012.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Derrick A. Gardner

Clearance Clerk

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